(3)

Docket No. 99-585

Supreme Court, U.S.
FILED
NOV 16 1999
CLERK

THE SUPREME COURT OF THE UNITED STATES

RONALD BRANSON, Petitioner,

v.

CITY OF LOS ANGELES; LOS ANGELES DEPARTMENT OF TRANSPORTATION (LADOT); THOMAS CONNER, General Manager LADOT; LOCKHEED MARTIN IMS CORPORATION (LIMSC); EDWARD AVILA, Western Region Senior Vice President LIMSC; CALIFORNIA DEPARTMENT OF MOTOR VEHICLES (DMV); SALLY REID, Director DMV, Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

REPLY TO BRIEF IN OPPOSITION

RONALD BRANSON
Petitioner, Pro Se
16623 Calahan St.
North Hills CA 91343
(818) 875-4231

November 13, 1999

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QUESTIONS NOT ADDRESSED IN LOCKHEED'S BRIEF IN OPPOSITION

2. Whether the judgment is supported by the record.

4. Whether petitioner is entitled to declaratory relief, together with the injunctive relief as sought.

5. Whether petitioner is entitled to summary judgment in his favor as a matter of law.

* * *

1. ***Question 2: Whether the judgment is supported by the record*** - is threshold to everything else.

Whether or not the Court of Appeals violated Rule 201(d) F.R.E., Lockheed failed to show, throughout its Brief in Opposition, that the decision of the Court of Appeals contending "...Branson's action is an impermissible collateral attack against a prior state court judgment..." is supported by the record. Lockheed did not show (a) the "prior state court judgment" to which the decision refers, (b) the issues that were decided thereby, and (c) how it was collaterally attacked.

All other issues rest on that question. Lockheed contends that the "petition makes no showing that the decision of the court of appeals... (2) has so far departed from the accepted and usual course of judicial proceedings; or (3) sanctioned such a departure by a lower court" [Opp p.4], and then fails to discuss the validity of the judgment on its face.

The accepted and usual course of judicial proceedings here is stated on the face of the judgment:

> "We may affirm the district court's decision on any basis which the record supports."

However, the face of the judgment shows no "basis which the record supports" the decision, nor is there any basis shown for the lower court's decision --self-evident that both (2) and (3) are factors compelling the exercise of this Court's supervisory power under Rule 10(a).

This question was renewed before the 9th Circuit in the currently pending post-judgment motion by Lockheed for Rule 38 FRAP sanctions, and after more than 90 days, it is still pending.

2. ***Question 4: Whether petitioner is entitled to declaratory relief, and Question 5: Whether petition is entitled to summary judgment in his favor as a matter of law*** have not been discussed by Lockheed in its Brief in Opposition.

Dated: Nov. 13, 1999

Ronald Branson

RONALD BRANSON
Petitioner, Pro Se
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North Hills CA 91343
(818) 875-4231